IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 17.8.2006.

Rakesh Rajpal and another

...Appellants

versus

Dhanpal Singh and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr. Justice S.D.Anand.

Present: Mr.Naresh Katyal, Advocate,
for the appellants.

UMA NATH SINGH, J. (Oral)

This FAO by the claimants, being the major son and daughter of the deceased, arises out of an award dated 21.7.2005 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Karnal, in MACT Case No. 134 of 2001, awarding a sum of Rs.54,500/- in death case of a 72 years old man said to be a Government service pensioner.

Admittedly, filing of the FAO is barred by 101 days' delay and the explanation given in the application does not show sufficient cause to condone the said delay. Moreover, on merit, since the claimants are major son and daughter, well settled in life, as they are said to be running a small scale enterprises in Delhi, and further as the age of the deceased was 72 years at the time of accident, the Tribunal has assessed the income of the deceased at Rs.15,000/- per annum.

We have carefully perused the award. The Tribunal has correctly assessed the income of the deceased at Rs.15,000/- per annum and has deducted 1/3rd amount towards personal expenses. It appears that the Tribunal has rather taken a liberal view in deducting only 1/3rd because the

deceased was a retired 72 years old man and it also appears that he was survived by his major son and daughter, therefore, he should be spending ½ of his earning on himself. The Tribunal has applied the multiplier of 5 and rightly so, looking at the age of the deceased. Moreover, Hon'ble the Apex Court in a judgment reported in AIR 1998 SC 2276 (P.K.Ramachandran versus State of Kerala and another), has held that the Courts cannot extend the limitation on equitable ground.

Accordingly, the FAO is dismissed on the ground of delay as well as on merits.

(UMA NATH SINGH)
JUDGE

August 17, 2006 **(S.D.ANAND)**
pk **JUDGE**